

The sole issue raised on review by the respondent is the nature and extent of claimant's disability. Respondent argues the claimant's whole body functional impairment

should be reduced to 6-10 percent based on Dr. Prostic's opinion, specifically excluding claimant's bilateral arm complaints.

Claimant argues he is entitled to a 25 percent whole body functional impairment based on an average of Drs. Prostic and Koprivica's opinions.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs, the Board makes the following findings of fact and conclusions of law:

There is no dispute between the parties' as to the compensability of the claimant's injury. Claimant was involved in a rather serious vehicular accident in Aurora, Colorado, on February 19, 2001. While he was driving a tractor/triple trailer he discovered he had lost his brakes. In order to avoiding colliding with other vehicles, he swerved off the road. The tractor and the first trailer flipped over and the two other trailers pushed the cab he was riding in across the road where he finally came to a stop.¹

According to claimant, he sustained injuries to his neck, lower back, both legs as well as both wrists and hands. After completing his course of treatment, claimant returned to work for respondent at a comparable wage and has continued in that capacity, performing each of his assigned regular duties. The only dispute to be addressed by this appeal is the nature and extent of claimant's permanent functional impairment attributable to his accident.

Claimant was examined by two physicians for rating purposes. Dr. P. Brent Koprivica examined claimant on June 18, 2002. According to the history Dr. Koprivica obtained claimant denied any previous physical problems, specifically denying any numbness of hands or triggering of fingers before this accident. After an examination and review of the pertinent medical records, including the post-operative reports following claimant's bilateral carpal tunnel surgeries, he assigned a 30 percent to the body as a whole for the permanent impairment sustained as a result of the February 19, 2001 accident.² A significant portion of this rating included permanency for the bilateral carpal tunnel surgery and residual limitations.

¹ R.H. Trans. at 7.

² This rating is based upon the principles set forth in the American Medical Ass'n, *Guides to the Evaluation of Permanent Impairment* (4th ed).

Respondent took issue with the causative aspects of the bilateral carpal tunnel complaints. Specifically, respondent inquired of Dr. Koprivica if he was aware that claimant's first complaints regarding his thumbs and wrists came in August 2001, nearly six months after his accident. Dr. Koprivica conceded claimant's symptoms were not immediately noticeable after the accident. However, he opined that claimant had a preexisting bilateral carpal tunnel condition that had yet to become symptomatic. The accident aggravated that condition and by August 2001, his symptoms could no longer be ignored. Dr. Koprivica was specifically asked what mechanism of injury could have caused the aggravation. He responded that the act of bracing oneself on the steering wheel directed force into the wrist area and caused swelling, thereby leading to carpal tunnel problems.³

Claimant was also evaluated by Dr. Edward J. Prostic on January 27, 2003. Dr. Prostic performed an examination and issued a written report, indicating that, in his opinion, claimant sustained sprains and strains to his cervical and lumbar spine in the February 19, 2001 accident. He also diagnosed "continuing irritability of the median nerve at each wrist and flexor tendon nodule at both thumbs and at the right little finger."⁴

Dr. Prostic initially did not assign any permanency relating to the bilateral hand and arm complaints that claimant voiced during the examination. Dr. Prostic concluded that the type of accident claimant was involved in was "not what we usually expect for causing carpal tunnel syndrome or flexortenosynovitis."⁵ Additionally, he found claimant to be "hyperreactive to all maneuvers during the physical examination."⁶ For these reasons, he declined to attribute the 5-10 percent permanent partial impairment of each upper extremity at the shoulder level to the accident at issue. In short, he testified that "[r]epetitious forceful gripping is a much more common cause of these complaints than the motor vehicle accident that he reported."⁷ Thus, his rating for permanency caused by the February 19, 2001 accident was 6 percent to the body as a whole for the back.

Solely out of caution, Dr. Prostic was asked to combine the ratings for both upper extremities along with the neck impairment rating. When properly combined in the manner dictated by the AMA *Guides* yields between 12 and 17 percent, depending on whether the 5 or 10 percent for the upper extremities is utilized.

³ Koprivica Depo. at 25.

⁴ Prostic Depo. at 7.

⁵ Id. at 7.

⁶ Id. at 7.

⁷ Id. at 8.

Aware of the dispute regarding causation aspects relating to the carpal tunnel complaints, claimant's counsel specifically asked Dr. Prostic if it was reasonable for someone involved in an accident, such as the one claimant was involved, to experience an impact with their hands on the wheel or tightly grip the wheel during the impact. Dr. Prostic agreed that such a maneuver was reasonable.⁸ He also agreed that a traumatic accident could aggravate a preexisting carpal tunnel condition.

After considering the record as a whole, the ALJ concluded the best approach was to compromise the ratings of the two physicians and assessed a 24 percent permanent impairment to the body as a whole. Obviously, this assessment includes impairment for the bilateral carpal tunnel complaints.

The Board has carefully reviewed the depositions and considered the briefs offered by the parties. After doing so, the Board finds the ALJ's assessment was reasonable under the facts and circumstances and declines to overturn the ALJ's decision. The onset of claimant's carpal tunnel complaints was admittedly delayed. However, he testified to pain in both his arms and hands immediately following his accident. Although he had apparently not experienced any bilateral hand complaints before his accident, he clearly did have those problems after the accident. It appears that those complaints were not diagnosed and treated until the rest of his complaints had subsided.

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Award of Administrative Law Judge Robert H. Foerschler dated April 2, 2003, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of November 2003.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

⁸ Prostic Depo. at 11.

c: Keith L. Mark, Attorney for Claimant
 Wade A. Dorothy, Attorney for Respondent and its Insurance Carrier
 Robert H. Foerschler, Administrative Law Judge
 Paula S. Greathouse, Workers Compensation Director